

DIVISION OF BUILDING SAFETY

PLUMBING BUREAU MINUTES

MAY 21, 2004

DIVISION OF BUILDING SAFETY EMPLOYEES PRESENT

Dave Munroe, Administrator, Division of Building Safety  
Ted Hogander, Bureau Chief, Plumbing Bureau  
Marsi Woody, Financial Officer, Division of Building Safety  
Bob Rawlings, Program Supervisor, Plumbing Bureau  
Ken Holt, Inspector, Plumbing Bureau  
Tom Preston, Inspector, Plumbing Bureau  
Carla Siebel, Recorder

Board Members

Russ Firkins, Chairman  
Ray Coon  
Ben Schooley  
Milford Terrell

Legal Counsel

Kay Manweiler, Deputy Attorney General

Guests

Dennis Butterfield, Meridian Plumbing  
Bob Corbell, HVAC Association  
Russel Goyen, City of Idaho Falls  
Ed Howland, Boise State University  
Betty Howland  
Mike Kelly, Plumbers and Pipefitters Local Union #296  
Dwight Perkins, International Association of Plumbers and Mechanical Officials  
Jerry Peterson, Idaho Building Trades

The May 21, 2004 Plumbing Bureau Board meeting at 1090 East Watertower Street in Meridian, Idaho was brought to order at 9:00 a.m.

Mr. Firkins stated that the agenda items would be re-arranged to accommodate people who could not attend the full Board meeting.

### **AGENDA ITEM – CIVIL PENALTIES**

Kay Manweiler presented two drafts for the Board's review.

Draft One at 003. in Administrative Appeals requires the notified party to comply within ten days by paying the penalty or filing a written request for a hearing and posting bond in the amount of the penalty. The civil penalties provisions begin at 011. and are listed as 01. through 07. This is the range of penalties to expect if violations occurred in any one of the categories.

01. is for a person who acts as a contractor; 02. is for a person performing plumbing without a license; 03. is for a person performing plumbing outside the scope of a license; 04. is for a person who fails to pay fees or post permits; 05. is for a person who fails to make corrections; 06. is for a person who has a gross violation or is a repeat violator; .07 provides the ability for a person to go through district court if that person is unhappy with his appeal.

Draft Two offers the option of providing one rule for anyone violating any provision of the statute or rule and can expect to face a civil penalty from \$100.00 to \$1,000.00. Draft Two provides that anyone violating the law or rule is subject to civil penalties according to first, second, and third offenses. Ms. Manweiler instructed the Board to note that with a schedule such as this, it tends to give people the impression that they have three strikes before they have to worry about their license. That is a false assumption because the Board does not have to issue a civil penalty. The Board can go directly to a license and proceed against the license. Another problem is that there is a confusion created when policing and tracking offenses.

Ms. Manweiler stated she is not inclined to provide a ten day time frame in which the Board would have to issue its decision because a Board can be in violation of their own rule when it takes longer than ten days to make a decision. On the other hand, she believes the person making the appeal should have a time limit set for them.

Russell Firkins stated that Draft Two would seem to cover every thing regarding violation of laws and rules. He suggested that the Board could create a hybrid of both drafts.

Milford Terrell stated that plumbing contractors should be exempt from civil penalties. He also requested that anything presented to the Board that needs to be acted upon, should be given to the Board prior to meetings so that the Board has ample time to review any and all documents.

## **MOTION**

A Motion was submitted to table the decision required for civil penalties. The Motion was seconded. The Motion was approved by unanimous decision.

Milford Terrell and Kay Manweiler discussed creating a sub-panel committee to conduct civil penalty hearings. Ms. Manweiler stated that the Board can choose to have all hearings coincide with Board meetings, or the sub-panel committee can conduct the hearings and report a conclusion to the Board. Ms. Manweiler suggested that whatever decision the Board makes regarding how to conduct hearings, if the procedure does not work properly, the Board might try a different solution.

Milford Terrell asked for an executive committee to study the civil penalties. Russ Firkins asked Mr. Terrell to present his suggestions to him and he would see that they would be included in the drafting process.

Kay Manweiler asked the Board if they wanted a revised document that first excludes contractors, and second, includes everyone else.

Dave Munroe referred to Draft One under 011., 01. and began a discussion on the statement "any person who acts, or purports to act" as a contractor. Kay Manweiler stated that 01. refers to plumbing without a valid certificate of competency, and 02. refers to plumbing without an appropriate registration, 03. refers to practicing beyond the scope of the specialty certificate of competency, which applies only to specialty contractors and specialty journeymen.

## **AGENDA ITEM – FINANCIAL REPORT**

Marsi Woody presented the financial report. There have been seven months in the last ten months that have been very good, probably the best in the last ten years. All the large bills are paid except for the vehicles. They are on order right now. The overall fuel bill is going up about \$1,000.00 per month.

Milford Terrell discussed revenues with Marsi Woody by stating that some legislators believe the Plumbing Bureau has too much money in the free fund balance.

Mr. Munroe stated the Division had introduced cost-cutting measures by running the fleet vehicles 120,000 to 130,000 miles on the odometer. The Department now changes computers every five years instead of every three years. Marsi Woody stated money would be spent on laptops this year to bring the field inspectors on line in real time, in the computer system.

Mr. Munroe stated that a new building has been built, the Coeur d'Alene office moved to a better location, and the Division created a new computer system.

### **AGENDA ITEM- STAGGERED LICENSES**

Kay Manweiler introduced the new rule IDAPA 07.02.05.016 to the Board.

### **MOTION**

A Motion was made to adopt IDAPA 07.02.05.016 and to enter it into emergency rule. The Motion was seconded. The Motion carried by unanimous vote. No discussion was required.

### **AGENDA ITEM – REVIEW OF PLUMBING FEES, STATUTES, AND RULES**

Milford Terrell discussed the history of plumbing permits and fees starting with the 1975 era when emergency rules were instituted to raise the permit fees in order to help the Plumbing Bureau stay solvent.

Mr. Terrell asked Kay Manweiler what the quorum is for the Plumbing Board. Ms. Manweiler stated three is a quorum of this Board.

Mr. Terrell continued his questions with Ms. Manweiler to determine if a few members of the Board can meet without a formal meeting. Ms. Manweiler stated that a Board could delegate a sub-group to meet for purpose of research only. An agenda would still be required, but a written or recorded record of the meeting is not required as long as the Board does not allocate decision-making authority to the sub-group. Ms. Manweiler suggested that a statement of task be provided by the Board, and then that group would meet under an agenda.

Milford Terrell asked for three members of the Plumbing Board be appointed to a sub-group in accordance with open meeting laws to look at the Plumbing Bureau's fee structure to determine a way to show the legislators that the Board understands there is a free-fund balance greater than it should be. Mr. Terrell acknowledged Mr. Munroe's concerns regarding reducing the free-fund balance, but still believes that the Bureau does not need to build a large free-fund balance. He agreed to leave money in the free-fund balance for future or unexpected expenses, but he sees other state agencies accomplishing goals with less money.

Russell Firkins appointed Ray Coon, Ben Schooley and Milford Terrell to the task force. He also asked Dave Munroe, Marsi Woody, Ted Hogander, and Kay Manweiler to be advisors for the task force. The sub-group will prepare a report for the Board at the next Board meeting.

Mr. Munroe reminded the Board that \$877,000 would come out of the \$3.9 million fund at the beginning of the 2005 fiscal year for HVAC. So, the fund will be reduced by almost \$1 million dollars in a short time. There will be \$85,000 used to train plumbing inspectors to do mechanical inspections. That fee will come out in the 2005 fiscal year.

Bob Corbell stated that if plumbing fees were cut back, that would cause a large discrepancy between plumbing fees, electrical fees, and HVAC fees. It will make the fees look out of balance and may cause an adverse affect on what HVAC is trying to accomplish.

Kay Manweiler stated that Occupational Licensing did not access fees for one year to reduce their free fund balance rather than change their fee base.

### **AGENDA ITEM - JOURNEYMAN CLOSED BOOK EXAMINATION**

Bob Rawlings presented a compilation of information regarding journeyman examinations. Out of 464 examinations taken, 371 people passed the examination, and 93 failed the examination. This creates an 88 percent pass rate, which is up from 81 percent. Based on these numbers, the proposal is to resume closed book examinations since the success rate has improved and allow the applicants to be tested on what they have learned in their classes. The Board disagreed, citing a 7 percent increase is not high enough to resume closed book examinations.

Milford Terrell suggested that the pass rate should be 90 percent or 92 percent. Ed Howland stated that students would apply themselves better if they know that they will be required to participate in closed book examinations. He felt that attendance would improve if the students know that they can't rely on open book examinations.

Milford Terrell suggested the Board should make a statute to require apprentices to attend apprenticeship classes. Ed Howland volunteered to work with Mr. Terrell to create legislation requiring apprenticeship attendance.

Since the examination numbers include all applicants in the state, as well as plumbing journeymen, Milford Terrell asked for a revised report to include only Idaho Plumbing journeymen in Bob Rawlings calculations.

### **MOTION**

A Motion was made to have, at the next Board meeting, a revised report regarding the statistics of journeyman examinations, as well as a comparison of electrical and plumbing journeyman examinations. The Motion was seconded. The Motion carried with a unanimous vote.

## **AGENDA ITEM – BASE PERMIT FEES**

Ted Hogander stated that he had identified a problem within the Plumbing Bureau and had a solution to remedy the situation. He presented written examples of how a contractor does not manage permits. The permits are lost or used for multiple jobs. By charging a contractor the \$30.00 base fee for each permit prior to issuing the permit, he believes a contractor would be much more conscientious about the handling of his permits. Mr. Hogander reminded the Board that this action is not an increase in fees.

After a discussion among the Board members, the decision was made not to charge \$30.00 for each permit issued. Kay Manweiler was asked if excavators could be targeted for this new procedure because there is a major problem with excavators tracking their own permits. Ms. Manweiler stated that the Board has an obligation, from an enforcement perspective, to treat everyone fairly. However, if there is a rational basis for selecting a particular group, and by documenting the offenses, the Board could target a select group.

Dave Munroe explained to the Board that, from an auditing standpoint, it is important to run the Bureau as a business and to track all aspects of the Plumbing Bureau, including outstanding permits.

## **AGENDA ITEM – SEISMIC STRAPPING**

Ted Hogander presented maps where seismic strapping is required.

Russel Goyen stated that seismic strapping is required in the Uniform Plumbing Code, and the International Code. The Building Code requires mechanical equipment to be strapped. The International Fuel Gas Code references the International Building Code which requires strapping of appliances. Mr. Goyen stated that it would be difficult for the Plumbing Board to try to eliminate seismic strapping from the Uniform Plumbing Code because there would be even more confusion going from one district to another.

Mr. Goyen informed the Board that this is a good opportunity to specify acceptable methods of strapping to attempt to cut down on the confusion from one jurisdiction to another. Mr. Goyen stated that the 24-gauge plumbers tape installed with acceptable screws to prevent side-to-side and back-to-back movement is a good method of bracing.

Russ Goyen also stated there are various manufactured products for bracing water heaters and the Board could review those too. He did not have a recommendation for any particular strapping method.

Bob Rawlings stated that the Board was going to make a decision regarding seismic strapping either last February, 2004 or at this present meeting to enforce

or not enforce seismic strapping requirements. Mr. Rawlings has been informing attendees in the code classes that there would be a six-month implementation period if the Board decides to enforce seismic strapping.

Milford Terrell stated that plumbing contractors have an obligation to protect the public. He suggested that there should be an acceptable mechanism or mechanical device to secure water heaters in an accepted standard before he could vote for requiring seismic strapping. Mr. Terrell wants a continued study to take place to find a mechanism for securing water heaters.

Ray Coon suggested having manufacturers invited to a Board meeting to present the various strapping methods.

Dwight Perkins volunteered to provide information on water heater anchoring systems as prescribed in the Uniform Plumbing Code. Mr. Perkins stated that banks and housing authorities might have problems with loan approvals if water heater anchoring is not part of the Uniform Plumbing Code.

Bob Rawlings gave the Board a reference to Uniform Plumbing Code 301.1 for their review of anchoring products.

Dave Munroe stated that representatives from companies providing water heater bracing products can be invited to a Board meeting to present different methods of bracing water heaters, or the products can be purchased by the Plumbing Bureau and presented to the Board members at the next Board meeting.

Russell Firkins stated that he would rather have the products introduced at a Board meeting rather than having sales representatives present the products.

After a discussion, the Board decided to table a decision regarding seismic strapping until the next Board meeting.

#### **AGENDA ITEM – APPROVE MINUTES**

##### **MOTION**

A Motion was made to accept the Minutes from the November 14, 2003 Board meeting. The Motion was seconded. The Motion carried by unanimous vote.

##### **MOTION**

A Motion was made to accept the Minutes from the December 16, 2003 teleconference Board meeting. The Motion was seconded. The Motion carries by unanimous vote.

## **AGENDA ITEM – OLD BUSINESS/NEW BUSINESS**

### **OLD BUSINESS**

Ted Hogander presented a rough draft copy of a proposed Plumbing Contractor Reference Manual. The manual will be sold to prospective plumbing contractors, or anyone interested in the manual, at \$10.00 each to offset the printing costs. The proposal includes the intent to change the plumbing contractor examination to include information presented in the Plumbing Contractor Reference Manual regarding taxes, worker's compensation, business, and OSHA.

Milford Terrell suggested there should be at least 100 business questions on the plumbing contractor examination.

Dwight Perkins will provide colored Illustrated Manuals to all Board members in three weeks. He will send the manuals to the Plumbing Bureau at the Meridian office.

Bob Rawlings informed the Board that since Jim Taylor has no more violations, he is due to receive his re-instated journeyman plumber license on June 2, 2004.

### **NEW BUSINESS**

Dave Munroe stated that a Plumbing Board meeting would be held in Meridian on Friday, August 6, 2004. Another Plumbing Board meeting will be held in Post Falls on Friday, September 10, 2004. Russ Firkins requested the web site to be changed to reflect the new Board meeting dates.

Jerry Peterson suggested that all Plumbing Board Minutes should be posted on the Plumbing Bureau's web site. Dave Munroe stated that could be done after the Plumbing Board approves the Minutes.

### **MOTION**

A Motion was made to adjourn the Plumbing Board meeting. The Motion was seconded. The Motion was approved by unanimous vote. The Plumbing Board Meeting was adjourned at 1:55 p.m.

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DAVE MUNROE, SECRETARY